

**CITY OF COOS BAY
JOINT CITY COUNCIL / URA WORK SESSION
Agenda Staff Report**

MEETING DATE December 13, 2016	AGENDA ITEM NUMBER
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TO: Mayor Benetti and City Councilors

FROM: Rodger Craddock, City Manager

ISSUE: Policy Defining Media for the Purposes of Attending Executive Sessions

BACKGROUND:

Oregon's public meeting laws allow for governmental bodies to meet in closed-door executive sessions in limited and specifically identified circumstances as identified in ORS 192.660 and as listed below:

- Initial employment of public officials and employees;
- Dismissal or disciplining of an officer or employee or performance evaluation of an officer or employee, unless the officer or employee requests an open meeting;
- Matters pertaining to the functions of a public hospital medical staff;
- Deliberations with persons designated to negotiate real property transactions;
- Deliberations with persons designated to conduct labor negotiations;
- Discussion of records that are exempt from public inspection (for these executive sessions, media may be excluded);
- Negotiations involving matters of trade and commerce when the unit of government is in competition with other areas;
- Legal rights and duties of a public body with regard to current litigation or litigation likely to be filed;
- Review and evaluation of an executive officer, public officer, employee or staff member, unless an open hearing is requested by the person being reviewed; or Negotiations regarding public investments.

Oregon's public meetings laws allow for representatives of the news media to attend executive sessions, (except those involving labor negotiations) but the council may direct them not to publish specific information.

As the state does not define "news media" in regards to the public meeting laws, and given the proliferation of news sources in today's electronic information age, many governmental bodies are adopting rules regarding who qualifies as news media for executive session purposes.

Several years ago a task force consisting of representatives of Open Oregon, Lake Oswego City

Attorney (also representing the League of Oregon Cities), Lake Oswego Mayor, Clackamas County Counsel, the Oregonian, the Oregon Newspaper Publishers Association and the Oregon Association of Broadcasters crafted what was considered a model executive session news media attendance policy.

Attached you will find the model policy which has been modified (inserted the name of our City wherever necessary as well as a list of recognized news media entities currently recognized by the City) for your consideration.

ADVANTAGES:

Its advantages for the Council to adopt such a policy given that the relevant state law does not define “news media and as our world has changed since the law was enacted

DISADVANTAGES:

None

BUDGET IMPLICATIONS:

None

ACTION REQUESTED:

Direct staff to place the draft Executive Session News Media Attendance Policy on the December 20, 2016 Council Agenda for consideration and possible adoption.

City of Coos Bay

Resolution 16-26

A RESOLUTION OF THE CITY OF COOS BAY, COOS COUNTY, OREGON, ESTABLISHING A POLICY ON NEWS MEDIA ATTENDANCE AT EXECUTIVE SESSIONS

WHEREAS, Oregon public meetings law provides that representatives of the news media shall be allowed to attend certain executive sessions of public bodies, but such representatives may be required not to disclose specified information (ORS 192.660(4)); and

WHEREAS, because at the time state law regarding media attendance at executive sessions was adopted the “news media” consisted of entities that were institutionalized and structured to support compliance with the requirements of ORS 192.660(4), the law includes no express mechanism for enforcing those requirements; and

WHEREAS, technological advances since the time the public meetings law was initially adopted have resulted in communications mechanisms allowing virtually any individual or entity to disseminate information widely; and

WHEREAS, the City Council of the City of Coos Bay finds that in the absence of a statutory definition of “news media” as that term is used in ORS 192.660(4) it is necessary to adopt a policy that implements the intent of the public meetings law relating to executive session attendance without precluding attendance by Internet-based or other “non-traditional” information disseminators that are institutionalized and committed to compliance with ORS 192.660(4); and

WHEREAS the City Council of the City of Coos Bay recognizes that this policy is solely for the purpose of determining eligibility of individuals to attend executive sessions where disclosure of specified information from the executive sessions is prohibited, and is not intended to otherwise define “news media” or to determine eligibility to report on City of Coos Bay activities or to limit access to other City of Coos Bay meetings by any person.

Now, therefore, the City of Coos Bay hereby adopts the following resolution / policy:

1. Currently Recognized New Media Organizations. The following entities, through their authorized and authenticated representatives, are hereby recognized as news media organizations eligible to attend executive sessions, as they have an established history of meeting the requirements of this policy:

*The World Newspaper
Oregonian
Register Guard*

No other entity or its representative shall be permitted to attend an executive session unless it is recognized through the process set forth in Section 2 below.

2. Recognition of other News Media Organizations.

- a. The following entities are recognized as news media organizations eligible to attend executive sessions:

- (1) A general or associate member newspaper of the Oregon Newspaper Publishers Association, a broadcast member of the Oregon Association of Broadcasters, or a member of the Associated Press; or
 - (2) A newspaper that the City of Coos Bay uses for publication of public notices and that meets the requirements of ORS 193.020; or
 - (3) An entity recognized by the City of Coos Bay as being a news source that:
 - A. is organized and operated to regularly and continuously publish, broadcast, transmit via the Internet, or otherwise disseminate news to the public, and that regularly reports on activities of the City of Coos Bay or matters of the nature under consideration by the City of Coos Bay; and
 - B. is determined by the City of Coos Bay to be a business entity that is institutionalized¹ and that is committed to, and is structured to support the terms of ORS 192.660(4).² In making this determination, the City of Coos Bay may consider and weigh any factors that it deems to be relevant, including, without limitation, the existence of any of the following factors:
 - i. the entity has multiple personnel with defined roles within its organizational structure;
 - ii. the names of news-reporting personnel and responsible entity management personnel, together with addresses and contact telephone numbers, are readily available; and
 - iii. the entity has a process in place for correcting errors, including violations of executive session statutes, by a person with authority to take corrective measures.
- b. It shall be the entity's burden to persuade the City of Coos Bay by substantial evidence that it should be recognized as a news media organization meeting the criteria in Section 2(a) of this policy. Such evidence must be submitted thirty (30) calendar days in advance of the first executive session that the entity desires to attend. The City of Coos Bay shall make a determination within fifteen (15) calendar days of receiving the evidence submitted by the entity. A determination that the entity is not recognized shall be based upon written findings addressing the criteria in Section 2(a).

3. Attendance at Executive Sessions. Representatives of news media organizations recognized pursuant to Sections 1 and 2 of this policy shall be allowed to attend executive sessions, except as described in ORS 192.660(4) and 192.660(5), pursuant to the following process:

¹ For purposes of this policy, "institutionalized" means long-established or well-established.

² ORS 192.660(4). Representatives of the news media shall be allowed to attend executive sessions other than those held under subsection (2)(d) of this section relating to labor negotiations or executive session held pursuant to ORS 332.061(2) but the governing body may require that specified information be undisclosed.

- a. Representatives must provide substantial evidence persuading the City of Coos Bay that they are a news reporter for a recognized news media organization. In making its determination whether to recognize a representative of a news media organization, the City of Bay shall require:
 - (1) A press badge or identification issued by the recognized news media organization, plus proof of identity (e.g. a driver's license); or
 - (2) A recently published news article in the recognized news media organization publication or broadcast, with the person's byline, or a masthead showing the person's name as a member of the news gathering staff of the recognized news media organization, plus proof of identity; or
 - (3) A letter on letterhead from an editor of the recognized news media organization in which the editor states that the reporter is covering the meeting for the news media organization, plus proof of identity.
 - b. Representatives of the news media are not permitted to attend executive sessions involving the deliberations with persons designated to carry on labor negotiations. See ORS 192.660(4). If the executive session is being held for the purpose of conferring with counsel about current litigation or litigation likely to be filed, the City of Coos Bay shall exclude any member of the news media from attending if the member is party to the litigation to be discussed or is an employee, agent, or contractor of a news media organization that is a party to the litigation. See ORS 192.660(5).
 - c. The City of Coos Bay may require that a request to attend an executive session be made in writing. Such request shall provide the person's name and the entity for which he or she is a news reporter. The request shall also provide evidence described in subsections 3(a)(1), 3(a)(2), and 3(a)(3) of this policy. The request shall include the signature of the representative, certifying that he or she is gathering news for a recognized news media organization, that the information given is true and accurate, and that he or she agrees to comply with ORS 192.660(4).
 - d. The City of Coos Bay may consider any relevant evidence provided or gathered in making its decision as to whether a person shall be recognized as a representative of a recognized news media organization.
- 4. Recording Devices Prohibited. Cameras, tape recorders, cellular telephones, tablets, laptop computers, and any other devices capable of recording voice or video shall not be permitted or used in executive sessions, except for the equipment used by City of Coos Bay staff to make the official recording of the executive session.
 - 5. Exclusion Based on Direct Personal Interest. A representative of any recognized news media organization that has a direct, personal interest in the subject of the executive session that would frustrate the purpose of the executive session may be barred from attending.
 - 6. Application to Boards and Commissions. This policy and the procedures set forth herein shall also apply to all of the boards and commissions of the City of Coos Bay to the extent that a board or commission has authority to meet in executive session.

The foregoing resolution / policy was duly adopted by the City Council of the City of Coos Bay, Coos County, Oregon this 20th day of December 2016.

Joe Benetti, Mayor

ATTEST:

Susanne Baker, Recorder